IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1360 OF 2006

M/s.Ashok Vatika Pvt. Ltd. .. Petitioners.
Vs.
M/s.E.E.& C.Construction Company .. Respondents.

Mr.K.S.Dewal for the petitioners.
Mr.A.S.Khandeparkar a/w Mr.D.Brijesh for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 21ST AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioners and the respondents.

2. By this writ petition, the petitioners have impugned the order of the trial Court while recording the examination in chief of plaintiff's witness. While evidence of P.W.2 was being recorded, the objection was raised by the petitioner for production of the xerox copies of valuation report as secondary evidence and that objection was overruled by the learned Judge holding that it could be decided at the stage of final judgment and directed the parties to proceed with the matter. Mr.Dewal, learned counsel for the petitioner placed reliance upon the judgments

of this Court in **M/s.Conwood Agencies Pvt. Ltd. Vs. Namdeo Pandurang Panchal & Anr. 2005(1) ALL MR 335; Shri Durgashankar S.Trivedi & Ors. Vs. Shri Babubhai Bhulabhai Parekh 2003(2) ALL MR 565 and Bharat R.Desai & Anr. Vs. Naina Mohanlal Bhal 2004(2) ALL MR 291** to contend that the learned Judge ought to have decided the objection before proceeding further with the case by deferring the recording of further evidence of the witness. I perused the order as also the judgments relied upon by the petitioner. In my opinion, the order is appropriate and needs no interference. The learned Judge has kept the objections open to decide it at the stage of final judgment. The petitioner can cross examine the witness without prejudice to his rights and legal contentions in respect of the objections raised by him and advance his arguments at the stage of final arguments relying upon the aforestated judgments. In the circumstances this petition is without any merit and is dismissed as such.

(D.B.Bhosale, J.)